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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/667,889	09/23/2003	Martin Windorfer	028987.52516US	8638
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CROWELL & MORING LLP INTELLECTUAL PROPERTY GROUP P.O. BOX 14300 WASHINGTON, DC 20044-4300			EXAMINER CORDRAY, DENNIS R	
			ART UNIT 1731	PAPER NUMBER

DATE MAILED: 08/15/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/667,889

Applicant(s)

WINDORFER ET AL.

Examiner

Dennis Cordray

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 9/23/03, 12/16/04
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: ____

DETAILED ACTION

Examiner's Suggestion

In the last line of Claims 3, 8 and 13, change the word "on" to "in," since the rolled up area of the coil spring is supported within the cage-type receiving structure rather than on it.

Specification

The abstract of the disclosure is objected to because it contains more than 150 words. Correction is required. See MPEP § 608.01(b), a quotation of which follows:

(b) A brief abstract of the technical disclosure in the specification must commence on a separate sheet, preferably following the claims, under the heading "Abstract " or "Abstract of the Disclosure. " The sheet or sheets presenting the abstract may not include other parts of the application or other material. The abstract in an application filed under 35 U.S.C. 111 may not exceed 150 words in length. The purpose of the abstract is to enable the United States Patent and Trademark Office and the public generally to determine quickly from a cursory inspection the nature and gist of the technical disclosure.

Claim Objections

Claim 6 is objected to because of the following informalities: In line 6, the space between "in" and "operative" should be removed. Appropriate correction is required.

Claim 10 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. Claim 10 is dependent upon itself, therefore cannot further limit itself.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-17 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 1, 6 and 11 recite a "progressive characteristic spring curve such that the spring force...is greater than the oppositely directed force component of the operating force acting in the plane of the spring force during the inserting or operating of the cigarette lighter." It is not clear what is meant by a "progressive characteristic spring curve." The curvature of the spring obviously changes (is progressive) from linear to coiled as one moves from the holding section to the rear of the ashtray. Similarly, the force exerted by the spring progressively changes along its length as a function of the previously mentioned curvature. It is also not clear how the "progressive characteristic spring curve" relates to the "oppositely directed force component" resulting from operation of the cigarette lighter.

Claims 2, 7 and 12 recite "the spring force acting upon the ashtray is initially greater out of an operative position..." It is not clear whether the "operative position" refers to the operative position of the ashtray when it is open or to an operative position of the spring. The spring is always in some operative position, whether uncoiled and ready to push the ashtray drawer out or operating to oppose the oppositely directed force component from using the cigarette lighter.

Claims 4, 9 and 14 recite "the area of the band-type flat coil spring facing the end-side holding section is curved more...than the area of the band-type flat coil spring which follows." It is unclear what is meant by the word "follows." The nearest meanings of the word follow that appear to relate to the spring structure are "to move or go along the course of," "to come after in order, time or position" and "to come, move or take place after another person or thing in order or time." From one perspective, the rolled up portion of the spring follows the holding section by moving (rolling) toward it when the ash tray is opened, thus following the path set by the attached end of the spring. From another perspective, the holding section follows the rolled up portion in that it would be the last portion of the spring to roll up. In a spatial direction along the spring, either portion can follow the other, depending on whether one starts at the holding end or at the end of the spring at the rear of the drawer (i.e.-following the coiled portion is a holding section where the spring is attached to the housing).

Claims 3-5, 8-10 and 13-15 recite portions of the coil spring facing away from the end-side holding area (Claims 3, 5, 8, 10, 13 and 15) or facing the end-side holding area (Claims 4, 9 and 14). It is not clear what is meant by the terms "facing" and "facing away from" the end-side holding area. Claims 3, 8 and 13 appear to indicate that the holding area is located on the opposite face of the coil spring (facing the lower wall of the housing) from the rolled up portion (which rolls away from the lower wall and up into the cage behind the ash tray). Then the punched out section in the area facing away from the holding section (Claims 5, 10 and 15) would be at the upper face of the spring facing away from the lower wall of the housing, and it is not clear how the upper face

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can be punched out. From Claims 4, 9 and 14, it then appears that the lower side of the spring facing the lower wall of the housing is curved more, which also is not clear.

Claims 5, 10 and 15 recite that the flat coil spring has a punched out section and Claim 17 recites a method step of punching out a section. It is not clear whether the "punched out" section represents a hole completely through the spring or whether it represents a portion that has been warped out of the plane of the spring (made for instance by stamping in a die). Either configuration would significantly change the coil spring forces in the modified section of the spring.

Claim 8 recites the limitation "Ashtray assembly" in Claim 1. There is insufficient antecedent basis for this limitation in the claim. Claim 9 depends from Claim 8 and Claim 10 may depend from Claim 8, thus Claims 9 and 10 also have a lack of antecedent basis.

Claim 10 is dependent upon itself. From the structure of the preceding claim group 1-5, it will be assumed for the purpose of this examination that Claim 8 is intended to depend from Claim 6 and that Claim 10 is intended to depend from Claim 8.

Claim 16 is dependent from Claim 14 and thus inherits the indefiniteness thereof.

Claim Rejections - 35 USC § 103

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 3-4, 6, 8-9, 11 and 13-14 rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Nguyen et al (DE 19653302 A1).

Applicant admits on p 2, par 3 of the Specification that the prior art document DE 19653302 describes an ashtray of the general type claimed. Nguyen et al discloses a built in ashtray for a motor vehicle slidably disposed in a drawer type manner in a housing. The ashtray has a holder for a cigarette lighter mounted on the ashtray so that it can be moved into an operative position projecting upward from the ashtray. The ashtray has a driving device to move the holder into an upward operating position when the ashtray is displaced out of the housing and to move the holder downward when the ashtray is displaced into the housing. A spring is arranged between the housing and a rearward area of the ashtray, which spring, after release of a lock, changes the ashtray from a moved-in closed to a moved-out operative position.

The spring is a band type flat coil spring as shown by reference numbers 40 and 42 in Figs. 2a, b and c. One end of the spring 44 attaches to the lower wall of the housing 12 and the other end coils away from the attachment point in the back of the drawer 42. The spring curvature and force changes progressively from a flat configuration at the point of attachment to the housing to the coiled portion behind the

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drawer. At the rear of the drawer, the bottom of the spring band, which faces the attachment point, is wound in a smaller radius than the area which follows closer to the attachment point.

The spring force would inherently be greater than the oppositely directed force applied during operation of the cigarette lighter or it would also have been obvious to one of ordinary skill in the art to make the spring force greater to make the cigarette usable in a safe manner. If the drawer slides inward when one attempts to insert the lighter into its holder, the lighter becomes a safety hazard at best and completely nonfunctional at worst. A cage structure at the rear of the drawer to hold the coiled spring is not specifically shown but providing such a holding structure would also have been obvious to prevent the spring from becoming misaligned and failing to operate.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. [Marsh (1983382), Lorence et al (5060899), Henry et al (6129218), Kaupp (US 2002/0030060)]. They pertain to other trays or drawers opened and held open by spring action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dennis Cordray whose telephone number is 571-272-8244. The examiner can normally be reached on M - F, 7:30 -4:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Steven Griffin can be reached on 571-272-1189. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

GRC

DRC

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